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SEA

SERVICE DATE - JULY 3, 2007

Project as described is cleared of Farmland Protection
Policy Act (FPPA) concerns.*Stephen K. Chie*

JUL 13 2007

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

Date

ENVIRONMENTAL ASSESSMENT**STB DOCKET NO. AB-988 (Sub-No. 1X)****Nebkota Railway, Inc. - Abandonment Exemption - in Dawes and Sheridan Counties, NE****BACKGROUND**

In this proceeding, Nebkota Railway, Inc. (NRI) filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903. NRI seeks to abandon an approximately 30.3-mile rail line between milepost 404.3 near Chardon and the end of the line at milepost 374 at Rushville, in Dawes and Sheridan Counties, Nebraska ("the Line"). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). If the petition becomes effective, NRI would be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Line proposed for abandonment is located in a rural agrarian section of Nebraska and has been used primarily to serve grain elevators in Hay Springs and Rushville. The majority of the Line was originally owned and operated by the Chicago and North Western Transportation Company, a predecessor to the Union Pacific Railway Company. NRI acquired the Line between Chadron and Merriman in 1994 and gained trackage rights between Chadron and Crawford at the same time. The section of NRI-owned rail line, between Rushville and Merriman, had previously been abandoned by NRI in 2006 due to a decline in traffic and sustained economic losses.¹ Based on information in NRI's possession, the Line proposed for abandonment does not contain Federally granted right-of-way.

ENVIRONMENTAL REVIEW

NRI submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NRI served the environmental and historic reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

¹ This abandonment was approved pursuant to the Board's Decision in STB Docket No. AB-988X, Nebkota Railway, Inc. - Abandonment Exemption - Sheridan and Cherry Counties, NE, served March 21, 2006.

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anticipates future use of the right-of-way by the Nebraska Game and Parks Commission for trails use.

According to NRI, the proposed abandonment would not affect pending land use plans for Dawes or Sheridan Counties.

The U.S. Department of Agriculture, Natural Resources Conservation Service office located in Lincoln, Nebraska, has provided written notice to NRI that the area of the proposed abandonment does not contain prime farmlands.

In a March 2, 2007 letter to NRI, the U.S. Fish and Wildlife Service (FWS) in Grand Island, Nebraska stated that no significant adverse impacts to Federally listed threatened or endangered species protected under Section 7 of the Endangered Species Act are anticipated from the proposed abandonment. However, FWS noted that in the case that NRI must dispose of waste or spoil material outside the project's current scope, further Section 7 consultation may be required to assure that no adverse impacts occur to Federal trust fish and wildlife resources, including Federally listed species and Federally designated critical habitats.

FWS further indicated that the proposed abandonment is not likely to affect the bald or golden eagles protected under the Bald and Golden Eagle Protection Act. However, FWS noted that migratory birds, provided consideration under the Migratory Bird Treaty Act, could be impacted by the proposed abandonment if salvage activities are conducted during the following migratory bird nesting seasons: April 1 to July 15; February 1 through July 15; and July 15 through September 10. FWS recommends that field surveys for nesting birds be conducted if salvage activities are planned during these periods. FWS further requests that equal consideration be given regarding potential impacts to wetlands or streams and that compensation or restoration of wetlands may be required if significant impacts to these resources are anticipated. In order to address its combined concerns, SEA is recommending a condition requiring NRI to consult with FWS prior to initiating any salvage activities along the Line.

The Environmental Coordinator for the Midwest Regional Office of the National Park Service has indicated to NRI that it has no comment regarding the proposed abandonment.

NRI received a response from the U.S. Army Corps of Engineers (Corps), in Kearney, Nebraska regarding the proposed abandonment. The Corps indicated that in the event NRI proposes filling activities in Waters of the United States, the railway must apply for and receive a Core permit for any such work. Although NRI states that it does not intend to complete any such activities following abandonment of the proposed railroad, SEA will nevertheless ensure that Corps receives a copy of this EA for its review and comment.

The U.S. Environmental Protection Agency, Region 7, and the Nebraska Department of Environmental Quality both provided written notice to NRI indicating no concerns regarding the proposed abandonment.

2. Nebkota Railway, Inc. shall consult with U.S. Fish and Wildlife Service in Grand Island, Nebraska, prior to the initiation of salvage activities on the line proposed for abandonment.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities) and continued operation by another operator. In either of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail Line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

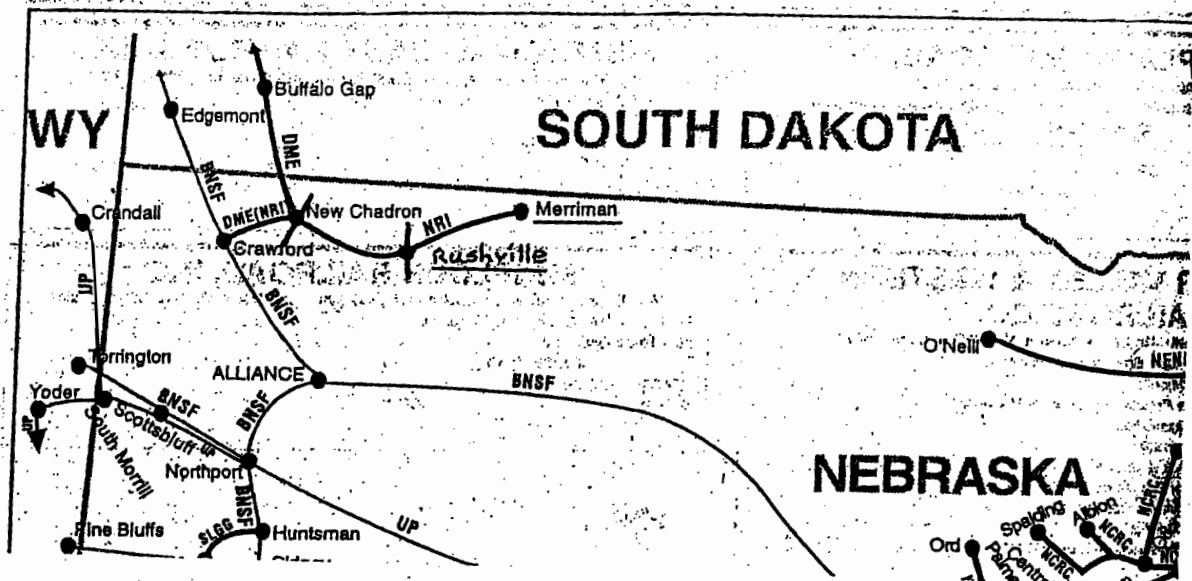
A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within the time specified in the Federal Register notice. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at 202-245-0230, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this EA, please send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Glidden, who prepared this EA. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link.



PROJECT LOCATION: STB DOCKET NO. AB-988 (SUB-NO. 1X)
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